

HENRY ETTING.

[To accompany Bill S. No. 91.]

MARCH 19, 1860.

Mr. SEDGWICK, from the Committee on Naval Affairs, made the following

REPORT.

The Committee on Naval Affairs, to whom was referred Senate bill No. 91, for the relief of Henry Etting, beg leave to report that they have had the same under consideration, and find the following facts:

On the 3d of March, 1835, Congress passed an act, by the second section of which it is provided, in respect to officers of the navy, that the yearly allowance thereto provided is all the pay, compensation, and allowance, that shall be received under any circumstances whatever, by any officer or person named in said act, except for travelling expenses when under orders, for which ten cents per mile shall be allowed.

In 1839 another act was passed, by the third section of which it is provided "that no officer in any branch of the public service, or any other person, whose salary, or whose pay or emoluments, is or are fixed by law and regulations, shall receive any extra allowance or compensation in any form whatever for the disbursement of public money, or the performance of any other service, unless the said extra allowance or compensation be authorized by law."

In 1842 another act was passed, by the third section of which it is provided "that no officer in any branch of the public service, or any other person whose pay, salary, or emoluments is or are fixed by law or regulations, shall receive any additional pay, extra allowance, or compensation, in any form whatever, for the disbursement of the public money or any other service or duty whatever, unless the same shall be authorized by law, and the appropriation thereof explicitly set forth that it is for such additional pay, extra allowance, or compensation."

After the passage of all these acts of Congress, the petitioner, who had been for many years a purser in the navy, went to sea attached to a squadron cruising on the coast of Africa. During the cruise Commodore Perry, who was in command of the squadron, convened several courts-martial for the trial of officers and others, and on these occa-

sions selected Lieutenant J. C. Rich, of the marine corps, to act as judge advocate. For this service the purser allowed and paid to Lieutenant Rich the sum of \$1,098 51, he presenting to the purser the usual vouchers therefor. This item was disallowed in the settlement of the purser's claim by the Auditor.

The payment is claimed upon the ground that the payments to Rich were made in good faith, with the sanction and approval of the commanding officer of the squadron, and that it was a great saving of the public money to hold these courts-martial at sea, and before the return thereof to the United States. He also claims that he was ignorant of the provisions of the act of 1842, and had received no special instructions in relation thereto.

Your committee are of opinion that the payment, by the purser to Lieutenant Rich, was entirely contrary to the spirit and policy of the statutes herein referred to, and of which he should not have been ignorant, and they do therefore report said bill back with a recommendation that the same do not pass.